IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE BILAL NAZKI**

**and**
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 13476 of 1999**

Between:

Sree Ram Oil Mills Proddutur
rep.by its Partner Mr.N.Prabhakar Reddy

**..... PETITIONER**

AND

1 The Commercial Tax Officer, Proddatur, Cuddapah Dist
2 The State of Andhra Pradesh rep.by its Secretary
Commercial Taxes Department, Secretariat Buildings, Hyderabad

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an appropriate writ, order or direction, more particularly in the nature of mandamus declaring that the entries 24-A and 24-B of the First Schedule r/w. the seventh schedule to the APGST Act are discriminatory and violative of Art.301 and 304(a) and 14 and 19(1)(g) of the Constitution of India in so far as they seek to levy higher rate of tax @ 10% on imported refined vegetable oils while levying tax @ 2% only on vegetable oils manufactured out of non refined vegetable oil which have suffered tax in AP and consequently set aside the assessment order for 1995-96 APGST and provisional assessment order for the period April and May-1998 APGST and show cause notices for 1996-97 & 1997-98 levying tax @ 10% on sales of vegetable oils (refined soya bean oil & palmoline oil) and hold that they are taxable @ 2% only on par with refined oil made out of tax suffered non refined oil and pass such other order.

**Counsel for the Petitioner: MR.T.RAMAM**

**Counsel for the Respondents: Sri K. Raji Reddy,**

**Spl.GP FOR COMMERCIAL TAX**

**The Court made the following :**

**HON'BLE MR. JUSTICE BILAL NAZKI**

**AND**

**HON'BLE MR. JUSTICE S. ANANDA REDDY**

**W.P.NO. 13476 OF 1999**

ORDER: (Per Hon'ble Mr. Justice Bilal Nazki)

It is submitted by learned counsel for the parties that the controversy is covered by a judgment of the Supreme Court reported in *ITC Agro Tech. Ltd. Vs. Commercial Tax Officer and others* in which it has been held that the commodity in question had to be taxed at 2% and not at 10%.

Following the same judgment, we allow this writ petition. The petitioner has paid 50% of the disputed tax in terms of the order of this Court. Therefore a fresh assessment be made and the amounts be refunded if taken in excess within eight weeks from the date of receipt of a copy of this order. No costs.

_____

BN J.

_____

SAR J.

Dt.13.10.2004

KR

That the Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this the Thirteenth day of October, Two Thousand and Four.

Sd/-

ASST. REGISTRAR

//True Copy//

Section Officer

1 The Commercial Tax Officer, Proddatur, Cuddapah Dist
2 The State of Andhra Pradesh rep.by its Secretary
Commercial Taxes Department, Secretariat Buildings, Hyderabad

3. 2 CCs to Spl. G.P. for Commercial Tax, High Court Buildings, Hyderabad (out)

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